THE HON'BLE SRI JUSTICE C.V. RAMULU

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WRIT PETITION NO : 10349 of 1998

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Dated: 10th August, 2005

Between:

The Depot Manager, A.P.S.R.T.C., Karimnagar.II Depot

… Petitioner

and

1. Kadari Jai Raj and another

… Respondents

ORDER:

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This writ petition is filed by the Depot Manager, Andhra Pradesh State Road Transport Corporation, Karimnagar-II Depot (for short, 'the Management'), being aggrieved by the award made in I.D.No.45 of 1995, dated 02-09-1997, wherein the claim petition filed under Section 2-A(2) of the Industrial Disputes Act, 1987 (for short, 'the Act'), by the first respondent-Workman was answered in his favour and the petitioner-Management was directed to reinstate the first respondent into service with continuity of service and attendant benefits in respect of increments only with one-fourth of back wages.

2. It is the case of the petitioner-Management that the first respondent was appointed as a Temporary Record Tracer with effect from 01-06-1966 and later, he was appointed as a Conductor. Before his involvement in the present misconduct, he was inflicted with several punishments like deferment of increments five times, censured once and removed three times from service. Thus, he is bereft of clean

record. While so, when the first respondent was conducting a bus on 02-03-1994, a check was exercised and certain cash and ticket irregularities were found. He was issued with the charge-sheet dated 16-03-1994 enumerating the following charges:

> "1. For having collected Rs.7/- each from three individual passengers at their boarding point itself who boarded your bus at Peddapalli and bound for Godavarikhani ex.stages 7 to 11 and issued tickets of Rs.7/- deno-bearing No.013/860189 to 013/860191 which were not connected to your tray and way bill and amounts to misconduct under Regulation 28(xxiii) of A.P.S.R.T.C. Employees' (Conduct) Regulations, 1963.
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> 2. For having closed the S.R. up to stage No.9 i.e. place of check without issuing valid tickets to the above passengers which constitutes misconduct under Regulation 28(vi)(a) and (xxxi) of A.P.S.R.T.C. Employees' (Conduct) Regulations, 1963."

The first respondent-Workman submitted an explanation and having not satisfied with the same, a detailed enquiry was ordered. The Enquiry Officer found the first respondent guilty of the charges. On the basis of the Enquiry Officer's report and on appreciation of the entire evidence, the Disciplinary Authority, petitioner herein, has passed final order dated
18-08-1994 removing the first respondent from service. Aggrieved by the same, he had filed appeal and review and the same were rejected vide proceedings dated 18-10-1994 and 12-04-1995 respectively. Having not satisfied with the same, the first respondent raised a dispute and filed the claim petition under Section 2-A(2) of the Act before the Chairman, Industrial Tribunal-cum-Labour Court, at Godavarikhani, and the same was taken up on file as I.D.No.45 of 1995. The Labour Court, without properly appreciating the facts and circumstances of the case, on technical grounds, held that the charges were not proved and the first respondent-Workman is entitled for reinstatement with continuity of service and attendant benefits and also for one-fourth of the back wages for the period he was out of employment. According to the petitioner-Management, the award of the Labour Court is erroneous and therefore, is liable to be set aside.

3. Though no counter is filed on behalf of the respondents, the learned Counsel appearing for the respondent strenuously contended that absolutely, there was no misconduct made out against the first respondent-Workman and as such, the Labour Court has considered every aspect of the evidence in detail and came to the conclusion that the charges were not proved and therefore, the punishment of removal was set aside and granted relief of reinstatement with continuity of service

and attendant benefits. Though the first respondent-Workman is entitled for full back wages, only one-fourth of the back wages are awarded. The award passed by the Labour Court is just and proper and does not call for interference of this Court under Article 226 of the Constitution of India.

4. I have given my earnest consideration to the respective submissions of the learned Counsel on either side and perused the award passed by the Labour Court, and also other material made available on record.

5. At the outset, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India insofar as the finding that the charges framed against the first respondent-Workman were not proved in view of certain technicalities. However, the Labour Court, while exercising its powers under Section 11A of the Act, directed the petitioner-Management to reinstate the first respondent-Workman with continuity of service and attendant benefits, but further held that the first respondent-Workman is entitled for one-fourth of the back wages since he has succeeded on technical grounds.

6. I am of the opinion that the Labour Court ought not to have granted any back wages. The past conduct of the first respondent-Workman as referred to in the counter filed before the Labour Court having noted the same, did not take into consideration for the purpose of awarding one-fourth of the back wages. In fact, the Labour Court noted that the first respondent-Workman was inflicted with several punishments like deferment of annual increments five times, removal from service thrice, censured once and suspended from service four times. Once this is the past misconduct of the first respondent-Workman, the Labour Court grossly erred in exercising its powers under Section 11A of the Act in granting the relief of awarding one-fourth of the back wages. I am of the opinion that the Labour Court ought not to have extended the benefit of even one-fourth of the back wages.

7. The writ petition is allowed and the award passed to the extent of granting one-fourth of the back wages is set aside and rest of the award passed by the Labour Court is confirmed. No order as to costs.

C.V. RAMULU, J

10th August, 2005.

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The *rule nisi* has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on Wednesday this the Tenth day of August, Two thousand and Five.